

CHAPTER 24:05:27

INDIVIDUAL EDUCATIONAL PROGRAM

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24:05:27:01.01. IEP team. Each school district shall ensure that the IEP team for each student with disabilities include the following members:

- (1) The parents of the student;
- (2) Not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
- (3) Not less than one special education teacher of the student or, if appropriate, at least one special education provider of the student;
- (4) A representative of the school district who:
 - (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - (b) Is knowledgeable about the general education curriculum; and
 - (c) Is knowledgeable about the availability of resources of the school district;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section;
- (6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student including related services personnel as appropriate;
- (7) If appropriate, the student; and
- (8) Transition services participants as described in §§ 24:05:25:16.01 and 24:05:25:16.02.

The determination of the knowledge or special education expertise of any individual described in this section shall be made by the party (parents or district) who invited the individual to be a member of the ~~placement committee~~ IEP team. A district may designate another district member of the IEP team to also serve as the district representative, if the criteria in this section are satisfied.

Source: 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:01.02. Development, review, and revision of individualized education program. In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student ~~and as appropriate, the results of the student's performance on any general state or district wide assessment programs~~. The individualized education program team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;

(2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;

(3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(5) Consider whether the student requires assistive technology devices and services.

~~If, in considering the special factors described above, the team determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education, the team must include a statement to that effect in the student's individualized education program.~~

The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including ~~assisting in~~ the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01.03(3).

Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program. No additional information may be required to be included in a student's IEP beyond what is explicitly required in this section.

Source: 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:01.03. Content of individualized education program. Each student's individualized education program shall include:

(1) A statement of the student's present levels of academic achievement and functional performance, including:

(a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or

(b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities; ~~and~~

~~(c) For students with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;~~

(2) A statement of measurable annual goals, including academic and functional goals, designed to:

(a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and

(b) Meet each of the student's other educational needs that result from the student's disability;

For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;

(3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be

provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided ~~for~~ to enable the student:

- (a) To advance appropriately toward attaining the annual goals;
- (b) To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
- (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;

(4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;

(5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14 ~~including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965~~. If the IEP team determines that the student shall take an alternate assessment instead of ~~on~~ a particular regular state or district-wide assessment of student achievement, a statement of why:

- (a) The student cannot participate in the regular assessment; and
- (b) The particular alternate assessment selected is appropriate for the student;

(6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;

(7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(8) Beginning not later than the first IEP to be in effect when the student turns is 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:

(a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and

(b) The transition services (including courses of study) needed to assist the student in reaching those goals; and

(9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

Source: 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:01.05. IEP team attendance. A member of the IEP team described in subdivisions 24:05:27:01.01(1) to (5), inclusive, is not required to attend an IEP team meeting, in whole or in part, if the parent of a student with a disability and the school district agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP team may be excused from attending, in whole or in part, an IEP team meeting that involves a modification to or discussion of the member's area of the curriculum or related services, if:

- (1) The parent and school district consent in writing to the excusal; and
- (2) The member submits, in writing to the parent and the IEP team, input into the development of the IEP before the meeting.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:01.06. Initial IEP team meeting for infants and toddlers. If a student was previously served under part C, an invitation to the initial IEP team meeting shall, at the request of the parent, be sent to the part C service coordinator or other representatives of the part C system to assist with the smooth transition of services.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:02. IEP team meeting date. IEP team meetings must be held within 30 days of a determination that the child needs special education and related services consistent with § 24:05:25:03, after receipt of evaluation results. Each school district shall ensure that preplacement evaluations and reevaluations are completed consistent with §§ 24:05:25:03 and 24:05:25:06; and if the child is determined eligible under this article, As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with an IEP.

Source: 16 SDR 41, effective September 7, 1989; 17 SDR 30, effective August 27, 1990; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:04. Determination of related services. In deciding whether a particular developmental, corrective, or other supportive service is a related service, the members of the IEP team shall review the results of the individual evaluations used to determine the child's need for special education. Based on the specific special education services to be provided, the team shall determine whether or not related services are required in order ~~to implement the special education program being recommended~~ to assist the child to benefit from the special education program.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:04.01. Parental consent for services. A school district that is responsible for making a free appropriate public education available to a student with a disability under this article shall ~~seek to~~ obtain informed consent from the parent of the student before initially providing special education and related services to the student.

The district shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. To meet the reasonable efforts requirement, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

If the parent of the student fails to respond or refuses to consent to services, the school district may not use the procedures in chapter 24:05:30, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the child ~~provide special education and related services to the student by utilizing the procedures described in chapter 24:05:30.~~

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:04.02. Parental refusal to consent -- School district obligations. If the parent of a student refuses to consent to the initial provision ~~receipt~~ of special education and related services, or the parent fails to respond to a request to provide such consent:

(1) The school district is not considered to be in violation of the requirement to make available free appropriate public education to the student for the failure to provide the student with the special education and related services for which the school district requests such consent; and

(2) The school district is not required to convene an IEP meeting or develop an IEP under this chapter for the student for the special education and related services for which the school district requests such consent.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:05. Hearing aid. For children with hearing impairments, including deafness, in need of special education who wear hearing aids in school, the IEP team shall include, as a related service, a monitoring schedule in the individual educational program to ensure the proper functioning of these corrective devices.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:05.01. External components of surgically implanted medical devices. Each school district shall ensure that the external components of surgically implanted medical devices are functioning properly.

For a child with a surgically implanted medical device who is receiving special education and related services under this article, a school district is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:27:06. Medical services. Medical services, as a related service, may only be authorized by an IEP team for diagnostic or evaluation purposes. Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:08. Yearly review and revision of individual educational programs. Each school district shall initiate and conduct IEP team meetings to periodically review

each child's individual educational program and, if appropriate, revise its provisions. An IEP team meeting must be held for this purpose ~~at least once a year~~ annually. The review shall be conducted to determine whether the annual goals for the student are being achieved. The individualized education program shall be revised, as appropriate, to address: any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; the results of any reevaluation conducted; information about the student provided to, or by, the parents; the student's anticipated needs; or other matters.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:08.01. Agreement to change IEP. In making changes to a student's IEP after the annual IEP meeting for a school year, the parent of a student with a disability and the school district may agree not to convene an IEP meeting for the purposes of making ~~such~~ the changes, and instead may develop a written document to amend or modify the student's current IEP.

If changes are made to the student's IEP in accordance with this section, the district shall ensure that the student's IEP team is informed of the changes.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:08.02. Amendments to IEP. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or, as provided in § 24:05:27:08.01, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:08.04. Alternative means of meeting participation. When conducting IEP team meetings ~~and placement meetings~~ pursuant to this ~~section~~ chapter and chapter 24:05:30, and carrying out administrative matters under chapter 24:05:30 (such as scheduling, exchange of witness lists, and status conferences), the parent of a student with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:10. Individual educational programs for students placed in private schools. Before a resident school district places or refers a child in need of special education or special education and related services to a private school, facility, or a contracting district, the district shall initiate and conduct an IEP team meeting to develop an individual educational program for the child in accordance with district procedures.

The district shall ensure that a representative of the private school or facility attends the IEP team meeting. If the representative of the private school or facility cannot attend the IEP team meeting, the district shall use other methods to ensure participation, including individual or conference telephone calls.

~~The district shall develop an individual educational program for each child in need of special education or special education and related services who was placed in a private school or facility by the district before the effective date of the Individuals with Disabilities Education Act, Part B regulations.~~

After a child in need of special education or special education and related services enters a private school or facility, any meetings to review and revise the child's individual educational program may be initiated and conducted by the private school or facility at the discretion of the district.

If the private school or facility initiates and conducts these meetings, the district shall ensure that the parents and a district representative are involved in any decision about the child's individual educational program and agree to any proposed changes in the program before those changes are implemented.

Even if a private school or facility implements a child's individual educational program, responsibility for compliance with this section remains with the school district and the division.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:12. Graduation requirements. Completion of an approved secondary special education program with a regular high school diploma signifies that the student no longer requires special education services. A regular high school diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or a general educational development credential (GED). Graduation from high school with a regular high school diploma constitutes a change in placement requiring written prior notice in accordance with this article.

The instructional program shall be specified on the individual educational program. The individual educational program shall state specifically how the student in need of special education or special education and related services will satisfy the district's

graduation requirements. Parents must be informed through the individual educational program process at least one year in advance of the intent to graduate their child upon completion of the individual educational program and to terminate services by graduation.

For a student whose eligibility terminates under the above graduation provisions, or due to exceeding the age eligibility for a free appropriate public education, a school district shall provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

Cross-Reference: Child identification, ch 24:05:22.

24:05:27:13. Modifications to regular vocational program. ~~If modifications to the regular vocational education program are necessary in order for the student to participate in that program, those modifications must be included in the individual educational program. If the student needs a specially designed vocational education program, then vocational education must be described in all applicable areas of the student's individual educational program.~~

~~Information regarding the availability of transitional services for students in need of special education or special education and related services at the secondary level shall be provided in a manner comparable to those services offered to students in the regular education program. Vocational and transitional services shall be addressed in a student's individual educational program beginning at the age of 16 or at a younger age as determined by the placement committee~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:13.01. Agency responsibilities for transition services. If a participating agency, other than the school district, fails to provide ~~agreed-upon~~ transition services contained in the IEP of a student with a disability, the school district ~~public agency~~ responsible for the student's education shall, ~~as soon as possible, initiate reconvene~~ an IEP team meeting for the purpose of identifying alternative strategies to meet the transition objectives set out in ~~and, if necessary, revising~~ the student's IEP.

Nothing in this section relieves a participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that

the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

~~A participating agency is a state or local agency, other than the public agency responsible for a student's education, that is financially and legally responsible for providing transition services to the student.~~

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:13.02. Transition services. Transition services are a coordinated set of activities for a student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to postschool activities, including postsecondary education, vocational ~~education~~ training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's strengths, preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:14. Individual educational program accountability. ~~Each school district must provide a child in need of special education or special education and related services with services in accordance with an individual educational program and make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP. However, no school district, teacher, or other person may be held accountable if a child does not achieve the growth projected in the annual goals and benchmarks or objectives.~~

~~Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent feels that the efforts required in this section are not being made~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:15.01. Student IEPs for student transfers within state. ~~If a student with a disability transfers school districts within the same academic year, enrolls in a new school, and had an IEP that was in effect in the state, the school district shall provide the student with a free appropriate public education. This includes providing services comparable to those described in the previously held IEP, in consultation with the parents, until the school district adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with federal and state law.~~

If a student with a disability, who had an IEP that was in effect in a previous school district in the state, transfers to a new school district in the state, and enrolls in a new school within the same school year, the new school district, in consultation with the parents, shall provide FAPE to the student, including services comparable to those described in the student's IEP from the previous school district, until the new school district either:

- (1) Adopts the student's IEP from the previous school district; or
- (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in this chapter.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:15.02. Student IEPs for student transfers from outside another state. ~~If a student with a disability transfers school districts within the same academic year, enrolls in a new school, and had an IEP that was in effect in another state, the school district shall provide the student with a free appropriate public education. This includes providing services comparable to those described in the previously held IEP, in consultation with the parents, until the school district conducts an evaluation pursuant to chapter 24:05:25, if determined to be necessary by the school district, and develops a new IEP, if appropriate, that is consistent with federal and state law.~~

If a student with a disability, who had an IEP that was in effect in a previous school district in another state, transfers to a school district in South Dakota, and enrolls in a new school within the same school year, the new school district, in consultation with the parents, shall provide the child with FAPE, including services comparable to those described in the student's IEP from the previous school district, until the new school district:

- (1) Conducts an evaluation pursuant to chapter 24:05:25, if determined to be necessary by the new school district; and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in this chapter.

Source: 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:16. Related services provided at no cost. The district shall provide related services at no cost to the parent. Related services include transportation; speech-language pathology; audiological services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services; including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school nurse and school health services designed to enable a student with a disability to receive a free appropriate public education as described in the IEP of the student; social work services in schools; and parental counseling and training. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g. mapping), maintenance of that device, or the replacement of the device.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000; 32 SDR 41, effective September 11, 2005.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:16.01. Rehabilitation counseling services. Rehabilitation counseling services are services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended ~~through May 9, 1980~~ to January 1, 2007.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:16.02. Services applicable to surgically implanted device. Nothing in this section:

(1) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services listed in § 24:05:27:16 that are determined by the IEP team to be necessary for the child to receive FAPE;

(2) Limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(3) Prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly, as required in § 24:05:27:05.01.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:27:20. Availability of assistive technology. Each ~~public-agency school district~~ shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if they are required as a part of the child's special education or related services or as supplementary aids and services.

~~Assistive technology devices and services must be provided only if they are required in order for a child to receive a free appropriate public education.~~

On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the student's placement committee determines that the child needs access to those devices in order to receive FAPE.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

24:05:27:21. Transition to preschool program. Each local school district shall develop policies and procedures for the transition of children participating in the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA) who are eligible for participation in preschool programs under Part B of IDEA.

Each district's policies and procedures must include the following:

- (1) A description of how the families will be included in the transitional plans;
- (2) Procedures to be used by the district for notifying the local network in which the child resides of the need for transitional planning;
- (3) Procedures for convening, with the approval of the family, a conference between the network, family, and district;
- (4) A requirement for convening the conference at least 90 days, and at the discretion of all parties, not more than 9 months before the child is eligible for the preschool program under Part B of Individual with Disabilities Education Act; and
- (5) Procedures for reviewing a child's program options for the period beginning with the day a child turns three and running through the remainder of the school year

including the development and implementation of an individual education program consistent with this article.

Each affected district shall participate in transition planning conferences arranged by the IDEA, Part C, program.

~~The district shall provide the family with information on the eligibility and evaluation requirements under Part B of Individual with Disabilities Education Act, including the parents' and district's rights regarding procedural safeguards.~~

In the case of a child with a disability, aged three, previously eligible for Part C of IDEA, the IEP team must consider the child's IFSP that contains the IFSP content, including the natural environments statement, described in article 24:14.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).

Cross-Reference: Procedural safeguards, ch 24:05:30.

24:05:27:22. Occupational therapy defined. Occupational therapy, as a related service, includes: ~~the development of fine motor coordination; sensory motor skills; sensory integration; visual motor skills; use of adaptive equipment; consultation and training in handling, positioning, and transferring students with physical impairments; and independence in activities of daily living.~~

(1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(2) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(3) Preventing, through early intervention, initial or further impairment or loss of function.

Source: 23 SDR 139, effective March 10, 1997.

General Authority: SDCL [13-37-1.1](#).

Law Implemented: SDCL [13-37-1.1](#).